



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0583; FRL-9995-30-Region 5]

**Air Plan Approval; Illinois; Infrastructure SIP Requirements for
the 2012 PM_{2.5} NAAQS; Interstate Transport**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of the State Implementation Plan (SIP) submission from Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or standard). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action pertains specifically to infrastructure requirements in the Illinois SIP concerning interstate transport provisions.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0583. All documents in the docket are listed on the www.regulations.gov web site. Although

listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is being addressed by this document?
- II. What comments did we receive on the proposed action?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews.

I. What is being addressed by this document?

On September 29, 2017, the Illinois Environmental Protection Agency (IEPA) submitted a request to EPA for approval of its infrastructure SIP for the 2012 annual PM_{2.5} NAAQS. On February 14, 2019, EPA proposed to approve the portion of the submission dealing with requirements one and two (otherwise known as "prongs" one and two) of the provision for interstate pollution transport under CAA section 110(a)(2)(D)(i), also known as the "good neighbor" provision.¹

The September 29, 2017 IEPA submittal included a demonstration that Illinois' SIP contains sufficient major programs related to the interstate transport of pollution. Illinois' submittal also included a technical analysis of its interstate transport of pollution relative to the 2012 PM_{2.5} NAAQS. This analysis demonstrated that current controls are adequate for Illinois to show that it meets prongs one and two of the "good neighbor" provision. After review, EPA proposed to approve Illinois' request relating to prongs one and two of the "good neighbor" provision.

¹ There are four prongs to the Section 110(a)(2)(D)(i) "good neighbor" provision: (1) prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state; (2) prohibit any source or other type of emissions activity in one state from interfering with maintenance of the NAAQS in another state; (3) prohibit any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration (PSD) of air quality in another state; and (4) protect visibility in another state.

II. What comments did we receive on the proposed action?

EPA's February 14, 2019 proposed rule provided a 30-day review and comment period (84 FR 4025). The comment period closed on March 18, 2019. EPA received one anonymous submission with supportive comments and one anonymous submission with adverse comments. The adverse comments and EPA's responses are addressed below.

Comment: The commenter asserts that EPA's approach to using only monitoring data to identify receptors for the purposes of evaluating interstate transport of PM_{2.5} is "long standing" but is arbitrary and, thus, impermissible because EPA's approach ignores the fact that direct emissions of PM_{2.5} can cause high local ambient concentrations in areas where there are no operating monitors.

Response: As described in the proposal, EPA has developed a consistent framework for addressing the prong one and two interstate transport requirements with respect to the PM_{2.5} NAAQS in several previous Federal rulemakings. The four basic steps of that framework include: (1) identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions

reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. Regarding identifying potential nonattainment and/or maintenance receptors (i.e. step one of the framework), EPA relies primarily on existing monitoring sites and modeling to project PM_{2.5} concentrations in future years. This approach to identifying potential receptors is consistent with how EPA determines whether an area is attaining or not attaining the PM_{2.5} NAAQS. For the PM_{2.5} NAAQS, determinations of attainment are based primarily on ambient data measured at ambient PM_{2.5} Federal reference method (FRM) and Federal equivalent method (FEM) monitors. Although EPA sometimes considers other information for purposes of evaluating areas with sources that may contribute to monitored violations, the fundamental basis for evaluating attainment/nonattainment for a PM_{2.5} NAAQS is the presence of one or more FRM or FEM monitors with data showing violations of the NAAQS. Similarly, for evaluating interstate PM_{2.5} transport, the determination of whether there are downwind receptors that are expected to have problems attaining or

maintaining the NAAQS is based on future year projections of ambient data measured at the FRM and FEM monitors in the area in question. To develop data that may be useful for analyzing interstate transport with respect to the 2012 PM_{2.5} NAAQS, EPA examined recent modeling analyses developed in support of other EPA rules to identify potential PM_{2.5} nonattainment and maintenance receptors. The modeling was used to project design values for the 2012 annual PM_{2.5} NAAQS to several future years for each ambient monitoring site. EPA believes this is a reasonable and consistent approach for addressing interstate transport for the 2012 PM_{2.5} NAAQS, and the commenter has not provided any information that would cause EPA to change the approach in this action.

Comment: The commenter asserts that EPA guidance regarding interstate transport of PM_{2.5} does not cite any AERMOD modeling of the impacts of direct emissions of PM_{2.5}, and thus does not justify EPA's longstanding approach of ignoring this possibility. The commenter asserts that EPA should apply EPA's approach for evaluating interstate transport for the 1-hour SO₂ NAAQS, which the commenter states has in some cases examined the evidence regarding specific large, near-border sources of SO₂ emissions, to PM_{2.5}.

Response: The commenter asserts that EPA should apply EPA's approach for evaluating interstate transport for the 1-

hour SO₂ NAAQS, which may include dispersion modeling using a model such as AERMOD. As described in the proposal, EPA has established a consistent framework for addressing the prong one and two interstate transport requirements with respect to the PM_{2.5} NAAQS in several previous Federal rulemakings. As discussed in EPA's 2016 memorandum entitled "Information on the Interstate Transport 'Good Neighbor' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)" (2016 memorandum), EPA and states have used a weight-of-evidence approach to assess PM_{2.5} transport from a given state to a given downwind receptor location. A state's submission for this requirement should provide the technical information that the state deems appropriate to support its conclusions. Prior guidance and EPA SIP actions suggest that suitable information might include, but is not limited to, information concerning emissions in the state, meteorological conditions in the state and in potentially impacted states, monitored ambient pollutant concentrations in the state and in potentially impacted states, distances to the nearest areas not attaining the NAAQS in other states, and air quality modeling. In contrast, SO₂ is not a regional pollutant and does not commonly contribute to widespread nonattainment over a large (and often multi-state) area. Therefore, unlike for PM_{2.5}, determinations of attainment or nonattainment for the

SO₂ NAAQS may be based on monitoring data or dispersion modeling data (from air quality models such as AERMOD) or a combination of both. Therefore, EPA has adopted a different weight-of-evidence approach for SO₂ transport, which, when available, may include air dispersion modeling such as AERMOD in addition to other factors such as ambient monitoring data and source specific analyses. The fact that EPA has adopted an approach that has a different focus for purposes of evaluating SO₂ transport does not mean that approach is appropriate for evaluating interstate transport of a regional pollutant like PM_{2.5}. For these reasons, EPA believes its approach for addressing the good neighbor provision for the 2012 PM_{2.5} NAAQS is reasonable and consistent with the nature of the interstate transport of PM_{2.5} and its precursors. The commenter has not provided any information that would cause EPA to change its approach in this action.

Comment: The commenter asserts that EPA should disapprove Illinois' submission because the state has failed to provide any analysis to support the implicit assertion that no large sources of direct PM_{2.5} emissions in Illinois and close to the border with another state are not causing or contributing to PM_{2.5} NAAQS violations in the neighboring state. The commenter asserts that in the absence of any evidence there is transport problem due to direct emissions of PM_{2.5}, EPA should not be applying a

presumption of innocence. This is particularly true for Illinois, which has many sources that emit direct PM_{2.5} (unlike some other states that mostly have sources that emit only PM_{2.5} precursors).

Response: The EPA did not apply a presumption of innocence in evaluating Illinois' obligations under CAA section 110(a)(2)(D)(i)(I). Rather, EPA has used a weight-of-evidence approach to assess PM_{2.5} transport from a given upwind state to a given downwind receptor location. The modeling discussed in the 2016 memorandum and referenced in the Illinois SIP considers both primary (directly emitted) PM_{2.5} and precursor emissions, the different processes (e.g., transport and deposition) that affect primary and secondary (i.e. formed by atmospheric processes) pollutants at scales and potential receptor locations that are consistent with determinations of attainment and nonattainment. Therefore, considering the weight of evidence, EPA has determined that the Illinois analysis is adequate for their transport SIP for the 2012 PM_{2.5} NAAQS. The commenter does not provide any information that indicates inconsistency or inadequacy of EPA's approach in this action, nor of Illinois' submission, which EPA is approving through this action.

III. What action is EPA taking?

In this action, EPA is approving the portion of Illinois' September 29, 2017 submission certifying that the current

Illinois SIP is sufficient to meet the required infrastructure requirements under CAA section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth above.

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian

reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under CAA section 307(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final

rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter, Reporting and recordkeeping requirements.

Dated: June 4, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 52.720, the table in paragraph (e) is amended under the heading "Section 110(a)(2) Infrastructure Requirements" by adding an entry at the end of the table for "2012 PM_{2.5} NAAQS Infrastructure Requirements" to read as follows:

§ 52.720 Identification of plan.

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(e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
Section 110(a)(2) Infrastructure Requirements				
* * * * *				
2012 PM _{2.5} NAAQS Infrastructure Requirements	Statewide	9/29/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Fully approving CAA transport requirements of (D) (i) (I).